IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl.Misc.No.47051-M of 2006

Date of Decision: 17.9.2007.

M/s N.V.Traders

....Petitioner.

Versus

State of Haryana and another.

...Respondents.

CORAM : Hon'ble Mr. Justice Surya Kant.

Present:- Ms.Rahish Pahwa Dudeja,Advocate
for the petitioner.

Mr.RD Sharma, DAG Haryana.

Mr.AS Kalra,Advocate,
for respondent No.2.

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SURYA KANT, J.(ORAL)

The prayer in this petition is for quashing of Complaint Case No.287 of 2004 dated 24.8.2004,, under Sections 406, 468, 471 IPC in which the petitioner has been summoned to face trial vide summoning order dated 24.11.2004.

The petitioner-firm is a commission agent and as per the allegations, respondent No.2 and his son used to sell their agricultural produce at the petitioner's shop. It is claimed that loan was advanced to respondent No.2 and his son from time to time. However, since they refused to repay the loan, two civil suits for recovery of Rs.5,55,000/- and Rs.4,27,500/-(Annexure P4 and P6) have been filed against respondent no.2 and his son.

It is further alleged that as a counter blast to the aforesaid civil

suits that respondent No.2 has now filed the impugned criminal complaint which is primarily based upon minor variations,in the receipts issued to respondent No.2 and his son from time to time on one hand and the entries made in the bahi (Accounts Book) maintained during the course of business, on the other hand.

After hearing learned counsel for the parties and keeping in view the disputed questions of facts involved in this petition, however, in order to obviate the hardship, if any, caused to the petitioner as a result of the impugned criminal proceedings, more so when the issues raised in the civil suits filed by the petitioner and the complainant are over lapping, this petition is disposed of with a direction to the learned Chief Judicial Magistrate, Kaithal, that the impugned complaint be entrusted to some Court where the above stated two civil suits for recovery, filed by the petitioner, are pending. The said trial Court is directed to list all the three cases on one date. If respondent No.2 and his son have also filed a civil suit for rendition of accounts, the same shall be entrusted to the above stated Court so that all the cases are heard and decided together.

Liberty is also granted to the Proprietor of petitioner's firm to move an application for his exemption from personal appearance in the criminal complaint and if such an application is moved by him the learned trial Court is directed to grant him exemption subject to, however, further following conditions:

(i) The petitioner shall be represented by a counsel before learned Judicial Magistrate;

(ii) The petitioner shall not dispute his identity as accused.

(iii) The petitioner shall have no objection if the evidence is

recorded in her absence;

(iv)The petitioner shall come present before the learned trial Court as and when required;

(v)The petitioner shall comply with any other condition (s) that may be imposed by the learned trial Court.

Disposed of.

(SURYA KANT)
JUDGE

Sept 17 ,2007.
Reema